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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,747	10/22/2003	Jack D. Pryor	PA1548	7767

7590 09/25/2007
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Medtronic Vascular, Inc.
IP Legal
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Santa Rosa, CA 95403

EXAMINER

GETTMAN, CHRISTINA DANIELLE

ART UNIT	PAPER NUMBER
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3734

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,747

Applicant(s)

PRYOR, JACK D.

Examiner

Christina D. Gettman

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-31, 33, 34 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) 2-7 and 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 20-31, 33, 34 and 43-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

During a telephone conversation with Serge Hodgson on April 9, 2007, a provisional election was made without traverse to prosecute the invention of species 1, claims 1, 20-31, 33-35, and 43. Claims 2-19, 32, and 36-42 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Newly amended claims 33 and 34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original species election was directed towards species I that included figures 1-3. The amendment that was made to claims 33 and 34 are drawn to a different species that are shown in figure 11. As is shown in figures 1-3, the slider and the anchor plate are not directly coupled, as recited in the amendment. Alternatively, in figure 11, the anchor plate and the slider are directly coupled.

Accordingly, claims 33 and 34 are withdrawn by the examiner from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 20-25, 27-30, and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al. (U.S. Patent No. 6,113,608) in view of Rife (U.S. Patent No. 5,741,288). Monroe et al. disclose the invention substantially as claimed including a stent delivery system including a housing (ref. 124, fig. 1), a sheath (ref. 112, Fig. 1), a slider (ref. 120, Fig. 1 by ref. 104, Fig. 1), an engagement plate (ref. 164, Fig. 1), a source of stored energy being a spring (ref. 160, Fig. 1 acts like a spring), an anchor plate (above ref. 136, Fig. 1), a stent constrained by the sheath (ref. 148, fig. 1), an inner member surrounded by the stent (see ref. 108, Fig. 1), a slider movement mechanism (ref. 144, Fig. 1), mean for connecting the slider to the engagement plate (through ref. 104, fig. 1), and a method of using the device to deploy a stent (col. 3-4; fluid is poured into the piston housing, the spring is contracted and pushes stent out into the vessel as well as retracts the sheath, the stent self-expands, and the spring pushes outward further retracting the sheath from the stent as well as pushing the stent out from the sheath). Monroe et al. do not disclose using a breakaway element. Rife teaches using a similar feature that can be considered as the breakaway element. As disclosed in the present application, the breakaway element is a strip of material that holds the engagement plate in place prior to actuation of the device. A force needs to be applied to this breakaway element in order for it to dissociate from the housing. Likewise, Rife teaches a button that is used to dissociate an engagement plate from the housing in order for a needle to be pushed out of the distal end of the device (see ref. 99, 106, and 37, Fig. 17-19). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Monroe et al. with a

Art Unit: 3734

breakaway element to initially move the slide plate. It would have also been obvious to use a thin strip of molding instead of the tab in Rife as the breakaway element in order for the engagement plate to dissociate from the housing upon actuation.

Claims 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe et al. as applied to claim 1 and 27 above, and further in view of Von Oepen et al. (U.S. Patent No. 2006/0142833). Monroe et al. disclose the invention substantially as claimed except for locking protrusions and locking apertures. Von Oepen et al. teach locking protrusions and locking apertures (ref. 106-108, Fig. 4-6) for the purpose of locking the slider to the engagement plate. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Monroe et al. with locking protrusions and locking apertures in order to help retract the sheath from the stent during deployment and to lock the slide with the engagement plate.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levin et al. (U.S. Patent No. 8,168,606) discloses a lancet device that propels the needle out of the orifice but the use of a spring, housing, and locking protrusions and locking apertures. Bicek et al. (U.S. Patent No. 6,206,888) disclose a stent delivery system that incorporates the use of a spring, a sheath, a stent, and an inner shaft that the stent surrounds.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3734

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

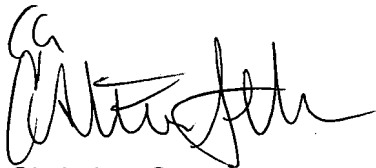
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina D. Gettman whose telephone number is 571-272-3128. The examiner can normally be reached on Monday-Friday 7:15 am to 3:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christina Gettman
Art Unit 3734
571-272-3128



MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER